



Ernie Fletcher
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Mark David Goss
Chairman

LaJuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

Christopher L. Lilly
Commissioner
Department of Public Protection

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Teresa J. Hill
Vice Chairman

Gregory Coker
Commissioner

Ms. Joan A. Coleman
Vice President/Regulatory/External
BellSouth Telecommunications, Inc.
601 West Chestnut Street
Room 410
Louisville, KY 40203

December 22, 2005

RE: Case No. 2005-00469

We enclose one attested copy of the Commission's Order in the above case.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth O'Donnell".

Beth O'Donnell
Executive Director

BOD/jc
Enclosure

Ms. Joan A. Coleman
Vice President/Regulatory/External
BellSouth Telecommunications, Inc.
601 West Chestnut Street
Room 410
Louisville, KY 40203

Gerard Wilson
Express Telephone Services, Inc.
6331 Grapevine Highway
Suite 250
N Richland Hill, TX 76180

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, INC.'S)
NOTICE OF INTENT TO DISCONNECT) CASE NO.
EXPRESS TELEPHONE FOR NON-PAYMENT) 2005-00469

O R D E R

On November 21, 2005, BellSouth Telecommunications, Inc. ("BellSouth") provided written notice to the Commission of its intent to disconnect Express Telephone ("Express") for non-payment of bills.

BellSouth requests authorization to invoke the Emergency Service Continuity Tariff approved by this Commission on May 20, 2003 in Case No. 2002-00310.¹ Invoking this tariff is necessary only if Express has not notified its end-users of the service disconnection. If the Emergency Service Continuity Tariff is invoked, BellSouth will continue to provide telephone service to Express's customers for a minimum of 14 days after Express ceases to operate.²

¹ Case No. 2003-00310, Customer Billing and Notice Requirements for Wireline Telecommunications Carriers Providing Service in Kentucky.

² BellSouth notified the Commission of the number of affected customers. BellSouth asserts this information is confidential.

The Commission, having reviewed BellSouth's notice and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. Express shall notify the Commission within 7 calendar days of the date of this Order of its intent to pay the delinquent bill to BellSouth within 10 days of the date of this Order or, in the alternative, of its intent to notify its end-users of the proposed service disconnection. Such written comments shall include a copy of Express's customer notice and an affidavit indicating when the notice was mailed and the number of Kentucky customers to whom it was mailed.

2. A copy of BellSouth's notice of intent to disconnect Express is attached hereto and incorporated herein.

3. If Express has not responded as prescribed in Ordering Paragraph 1 within 7 calendar days of the date of this Order, BellSouth shall implement the procedures established in its Emergency Service Continuity Tariff.

4. A copy of this Order shall be sent by certified mail to Express.

Done at Frankfort, Kentucky, this 22nd day of December, 2005.

By the Commission

ATTEST:


Executive Director



BellSouth Telecommunications, Inc.
601 W. Chestnut Street
Room 410
Louisville, KY 40203

Joan.Coleman@bellsouth.com

Joan A. Coleman
Vice President
Regulatory & External Affairs

502-582-2167
Fax 502-582-2140

November 16, 2005

Case No 2005-469

RECEIVED

NOV 21 2005

PUBLIC SERVICE
COMMISSION

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P. O. Box 615
Frankfort KY 40602-0615

Dear Ms. O'Donnell:

Pursuant to the Kentucky PSC's May 20, 2003 order in KY PSC Case No. 2002-0310, BellSouth is providing advance notice to the Kentucky Public Service Commission (PSC) of BellSouth's intent to disconnect Express Telephone ("Express") for non-payment.

BellSouth's records indicate that Express is delinquent in payment of its bills to BellSouth. Attempts to collect past due amounts from Express have been unsuccessful. BellSouth made numerous written notifications to Express informing them of BellSouth's intent to suspend or terminate services consistent with the terms and conditions of the Interconnection Agreement between Express and BellSouth. As of today, BellSouth has received no payment from Express and we seek to begin discontinuance of services immediately. Disconnection of Express services will affect Kentucky customers.

Under terms of their Resale Agreement, Express is solely responsible for notifying its end users of the proposed service disconnection. BellSouth is copying Express to remind them of their obligation to notify their end users of this situation regarding pending disconnection of services.

Should the Commission determine the need to invoke BellSouth's Emergency Service Continuity Tariff, BellSouth will take steps to notify the affected end users and inform them that they may continue to receive telecommunications services through The Emergency Services Continuity Plan for a minimum of fourteen (14) days and that the end user must transition to a new service provider.

Should you or the staff have any questions concerning this filing or need additional information, Mike Hayden, of my staff, is familiar with this matter and can be reached on (502) 582-8180.

EDITED

Very truly yours,


Joan A. Coleman

cc: Mr. Gerald Wilson

EDITED

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE OF BELL SOUTH)
TELECOMMUNICATIONS, INC., OF INTENT)
TO DISCONNECT EXPRESS TELEPHONE) CASE NO.
PURSUANT TO GSST A5.8, EMERGENCY)
CONTINUITY PLAN)

CONFIDENTIALITY PETITION
PURSUANT TO 807 KAR 5:001 SECTION 7

Petitioner, BellSouth Telecommunications, Inc., ("BellSouth"), hereby moves the Public Service Commission of the Commonwealth of Kentucky (the "Commission"), pursuant to KRS 61.878 and 807 KAR 5:001, § 7, to classify as confidential the highlighted information contained in the letter to Elizabeth O'Donnell from Joan Coleman dated November 16, 2005. The highlighted portion of the letter contains information specific Express Telephone ("Express").

The Kentucky Open Records Act exempts certain information from the public disclosure requirements of the Act, including certain commercial and also information the disclosure of which is prohibited by federal law or regulation. KRS 61.878(1)(c)1 and 61.878(1)(k). To qualify for the commercial information exemption and, therefore, keep the information confidential, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors and the parties seeking confidentiality if openly discussed. KRS 61.878(1)(c)1; 807 KAR 5:001 § 7. The Commission has taken the position that the statute and rules require the party

to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed.

The material for which BellSouth seeks confidential treatment in the portion of the letter identified above contains commercially valuable information. The information identified therein has potential value to other participants in the local exchange market, such as incumbent local exchange carriers (ILECs), competitive access providers (CAPs), facilities-based competitive local exchange carriers (CLECs), cable companies who have developed or are contemplating the development of wholesale or retail network products, and wireless providers.

The highlighted information also contains customer-specific information. Information provided to the Commission concerning specific customers is CPNI¹ and should not be publicly disclosed without the approval of the individual customers. Disclosure of customer-specific information is subject to obligations under Section 222 of the Federal Law. Federal law imposes the obligation to maintain the confidentiality of such information ("the 222(a) obligation"). KRS 61.878(1)(k), specifically exempts records or information from public disclosure when the disclosure of such information or records is prohibited by federal law or regulation. Therefore, because CPNI is protected from disclosure by federal law, this information should be afforded proprietary treatment.

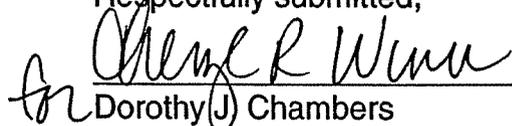
Public disclosure of the identified information would provide competitors with an unfair competitive advantage. The Commission should also grant confidential treatment to the information for the following reasons:

¹ Customer Proprietary Network Information

- (1) The information for which BellSouth is requesting confidential treatment is not known outside of BellSouth.
- (2) Although CLECs are required by the Commission to disclose end-user customer line counts that are a matter of public record, the information for which BellSouth is requesting confidential treatment provides more detailed information which provides an unfair competitive advantage to others;
- (3) The information is not disseminated within BellSouth and is known only by those of BellSouth's employees who have a legitimate business need to know and act upon the information;
- (4) BellSouth seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices; and
- (5) By granting BellSouth's petition, there would be no damage to any public interest.

For the reasons stated herein, the Commission should grant BellSouth's request for confidential treatment of the identified information.

Respectfully submitted,



Dorothy J. Chambers
601 W. Chestnut Street, Room 407
P. O. Box 32410
Louisville, KY 40232
Tel. No. (502) 582-8219

Robert A. Culpepper
Suite 4300, BellSouth Center
675 W. Peachtree St., N.E.
Atlanta, GA 30375
Tel. No. (404) 335-0841

COUNSEL FOR BELL SOUTH
TELECOMMUNICATIONS, INC.

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